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TRANSCOPYRIGHT PERMISSION: THE SYSTEM FOR UNRESTRICTED REPUBLICATION

LOS ANGELES, 7 June 1995. Ted Nelson, founder of Project Xanadu, today proposed "transcopyright" as a new linguistic and legal convention. It is intended to encapsulate a permission system in a word and symbol, like the term "shareware" (coined by Bob Wallace). "If, like the term 'shareware,' it enters the language and understanding of business, it should benefit everyone who chooses to participate, providing both potential revenue and intellectual credit. It is a method which will work with text, graphics, audio, video, and three-dimensional models," said Nelson.

The announcement was made at a press conference in Los Angeles today. "My work has always been about being able to re-use digital materials and deeply intercompare them in hypermedia formats," said Nelson. His intention has been to create a world of *unified transmedia*, where everyone's materials can be shared and republished as boilerplate and clip art, but with automatic royalty to the owners of the contents, and where users can compare the re-uses with the original contexts. These have always been goals of Project Xanadu. But these are not merely technical issues; these goals have always implicitly relied upon a copyright method which has not been separately explained.

The proposed copyright method is actually a very simple idea, but it has been bound up with the controversial Project Xanadu, which many people have not understood. "I had actually not recognized that the copyright method could be neatly separated from the delivery software we designed at Project Xanadu," admitted Nelson.

The anarchic hypertext publishing universe, which Nelson envisioned decades ago, now exists. It is not called Xanadu but World Wide Web, and its growth and impact have so far followed the course which Nelson had projected for Xanadu. The Web adopted several important parts of the Xanadu model, including the neutral-service back end and highly-capable browsing client, e.g. Mosaic and Netscape. "Now I want to see the remaining part of my ideas come to fruition," said Nelson.

"A key aspect will be the unrestricted re-use and republication of material, and that's what this copyright scheme addresses," Nelson explained. "But until recently, I had actually not recognized that our copyright method could be neatly separated from the delivery software we designed at Project Xanadu."

The copyright system, separable from any technicalities, may be used by rightsholders through any delivery system they choose. The system allows anyone to purchase and keep legal copies of whatever digital materials they want. If widely used, it will create a universe of readily-available materials which may be recomposited by all users for all purposes.

"Furthermore, it *works within the present system of law*," Nelson added.

"It doesn't even require a contract. It is a specific permission system, allowing everyone to quote material virtually and in any context, *providing that each copy of the materials is purchased from the rightsholder*. As a permission doctrine it resembles "shareware," which is also a permission doctrine encapsulated in a word that everyone understands."

"My objective right now is to establish a name and definition for this permission doctrine so that everyone who chooses may use it freely and to everyone's benefit," said Nelson. "I believe that this method represents a unique solution to the issue of digital copyright that is win-win, honest, fair, voluntary, subject to local variations as required, interoperable among variations, and transitive (you may republish something you receive from someone else).

The term Nelson has proposed is "transcopyright." It is not a trademark but a *declaration of permission to re-use in specific ways*, and it can be symbolized as follows:

trans© 1995 Bill Gates

or, in alternative styles,

trans(c) 1995 John Draper

transcopyright © 1995 Gary Wolf

transcopyright (c) 1995 Steve Jobs

It will be noted that the conventional copyright declaration is fully contained within the transcopyright declaration and therefore operative.

Nelson proposed the following definition for this declaration, adding that "the wording will no doubt improve with time."

"I (we) claim to be the rightsholder of this material. I (we) hereby give permission for the virtual re-use of this material for sale to any party for use in any new on-line context, provided that the virtual re-use consists only of providing a pointer or address to my network source for this material; and an indication of where this material is to be placed in the final recipient's copy of the digital document or object. I specifically relinquish context control over such new contexts if the material is purchased from my designated source by the end user. The end user may make one printout or other portable copy, and may in turn republish this material virtually in the same manner. I relinquish no other rights."

Specific variations of the arrangement may be decreed in the different jurisdictions by whoever runs them, provided that the above definition is understood as central.

ADDITIONAL ASPECTS OF THE METHOD

Transcopyright may best be understood as a way to eliminate negotiation between rightsholders and republishers across a broad class of direct quotation (but not adaptation or conversion of materials). Actual conversion of the elements to other forms would have to be an issue for separate permission, unless each purchaser can separately perform the conversion after purchasing the materials, possibly under the republisher's instructions for assembly of the intended object.

"Note that this system only works for on-line delivery," Nelson pointed out. "It does not transpose to hardcopy arrangements, CD-ROMs, etc., where print runs, production runs, intended marketing, etc. are relevant to licensing the use of material. These require specific negotiation with, and permission from, the rightsholder."

"Transcopyright permission has two special advantages: it legitimizes repurposing and republication to be legally undertaken by anyone; and it provides an honest method for such repurposing and republication that all can readily agree is honest. Thus, for instance, any corporation wishing to obey the law can direct all its employees to obey transcopyright provisions with the knowledge that they can still repurpose the materials in any way useful to the firm. And records may be kept to document these legitimate purchases.

Transcopyright permission only works where the bytes are not re-transmitted by the republisher, but always bought anew by each user from the original publisher (or the rightsholder, or the rightsholder's sales agent). However, conversion of the bytes opens so many issues for rightsholders that such a simple method is probably impossible. If the republisher wishes to convert the bytes to a new form and retransmit them as part of a package, some other kind of permission must be arranged.

"This leads to some interesting edge cases," said Nelson. "Transcopyright can be used for sound samples to be loaded into MIDI systems for musical play, but not for delivery of musical recordings incorporating others' copyrighted sound samples. Similarly, three-dimensional models and puppets may be purchased in this way, but using these three-dimensional puppets in film or video productions would require additional permission from the rightsholder. But if each customer buys the music sample and independently combines it with the musical score, as directed by the republisher, or or independently buys the 3D puppet and combines it with the animation, as directed by the republisher, it fits within the model of independent purchase and legitimately works with transcopyright."

Nelson does not expect large conventional publishers to be interested in this method at first, but foresees its immediate appeal to small publishers. There are perhaps forty major publishing firms in the United States, and some seventy-five thousand publishing firms altogether. "The immediate market is therefore about 75,000-minus-forty firms in the U.S.A., and many more abroad," said Nelson.

SPECIAL CASE OF MUSIC

Nelson pointed out that the plan cannot work with the standard ASCAP/BMI model as currently constituted, which grants "synchronization rights" only by specific negotiation with each party creating a film or comparable work. "Pragmatically, I think this means that transcopyright will enter the music business via 'unsigned bands' who are not subject to ASCAP/BMI rules."

SITE LICENSING

This model works perfectly when individual end-users are the market. "But," Nelson added, "if companies, universities, clubs, etc., wish to keep copies for distribution to their membership, it becomes slightly sticky. The best solution within this model, as I see it, is a kind of actuarial arrangement (as with corporate insurance), where the firm submits facts about the organization and is granted a license on some statistical basis of payment (like an insurance rate). But note that each transcopyright jurisdiction can set its own rules in these areas."

SPECIFICATION OF SOURCE, SALES AGENT, JURISDICTION

"In addition to the transcopyright notice, the declaration should also designate the source, jurisdiction or sales agent from which the material may be obtained," Nelson explained. This can be a courtesy to those who wish to purchase or republish, and also an indication as to where the prices, rules, by-laws and variations of that particular transcopyright system are defined. Examples:

transcopyright © 1995 John Smith, Compu-Serve

Trans(c) 1995 John Smith, Kinko's.

Transc© 1995 John Smith, Xanadu.

trans(c) 1995 John Smith, agent to be announced

The last case indicates an intention to grant transcopyright permission on the material, but no definite place to obtain the material as yet.

TECHNICAL REQUIREMENTS

This requires nothing heavy-duty. **SERVER SIDE, BUSINESS:** it requires this permission by all rightsholders, a committed repository in which the material is guaranteed to remain, unchanged. **SERVER SIDE, TECHNICAL:** it requires server software capable of selling the material in small arbitrary portions for micro-amounts, with receipt. (Note that conventional book royalties are in the range of 4000 nanobucks per byte, videotape profits are in the range of 18000 nanobucks per frame.) **CLIENT SIDE:** requires extensions to Mosaic, Netscape, etc., for such purchase, recompositing and filing of this material.

ENFORCEMENT

This system is no more enforceable, and no less enforceable, than any other digital copyright scheme.

XANADU'S FUTURE PLANS

After a long and what some have characterized as a painful history, Project Xanadu is in the process of redefinition. This will include setting specifications for Xanadu-like virtual documents and functions, which any developers may implement as they please. The company has plans to license some software systems which meet these specifications to be marketed under the name "Xanadu." Agreements are already underway or in development with Information Farm, Inc. of Berkeley, CA; Xanadu Australia of Melbourne, Australia; and Sensemedia of Santa Cruz, CA. An early goal of this effort will be to establish Xanadu® Quotable Repositories, which will offer material for small-portion sale under transcopyright, using the trademark "Quantum Quotation™."

"Establishment of Transcopyright as part of the legal landscape is a vital first step in this direction," Nelson concluded.

Project Xanadu is located at 3020 Bridgeway, Suite 295, Sausalito CA 94965; their telephone number is 415/ 331-4422, and their fax number is 415/ 332-0136. Nelson also holds the position of Research Fellow at the Sapporo HyperLab, Sapporo, Japan, and Editor at Large for NewMedia magazine, San Mateo, California. "Xanadu" is a registered trademark of Project Xanadu.